



SUPERIOR COURT STATE OF CALIFORNIA COUNTY OF CONTRA COSTA

ADR Programs Office • P.O. Box 911 • Martinez, CA 94553
(Email) ADRWEB@contracosta.courts.ca.gov
(Fax) 925-608-2109 • (Website) www.cc-courts.org/adr

Thank you for your interest in serving as a panelist for Contra Costa County Superior Court's Alternative Dispute Resolution (ADR) program. The ADR program has successfully removed many civil cases from the court's trial calendar, allowing the court to hear the remaining cases without undue delay. The resulting savings in time and money and improved the quality of outcomes reflect the generous contributions of our panel members.

Contra Costa Superior Court requires that all panel members have the following minimum qualifications:

- Mediation applicants must have completed at least 40 hours of formal mediation training from a single provider AND have mediated 5 or co-mediated at least 10 cases.
- Judicial Arbitration applicants must be retired judges, retired court commissioners, or members of the State Bar. You must have a signed oath of office to be appointed to this panel.
- Neutral Case Evaluation applicants must be experienced trial attorneys with expertise related to the issues in the case.
- Settlement Mentor applicants must be experienced trial attorneys with expertise related to the issues in the case.

You will note that there are certain restrictions regarding the minimum amount of time that must be donated to each program, and the limits on fees that can be charged.

The information you provide will be given to litigants and otherwise published as follows:

- Your name will appear on lists for the case types you select;
- Your resume or other background information will be uploaded to our panel member database and emailed upon request to parties to help research prospective neutrals and
- An abbreviated listing will be uploaded to the Internet

You may return the bulk of your panel member information by email or fax if you prefer, but **you must return the signed original for any Oath of Office you submit.** Please email if I can answer any questions, or provide more information.

Sincerely,

Lisa Swafford

Lisa Swafford
ADR Administrator



CONTRA COSTA COUNTY SUPERIOR COURT ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

MEDIATION

Mediation is often faster and less expensive than going to trial. Mediators help people who have a dispute talk about ways they can settle their case. Parties call or visit the ADR Programs office to get a list of mediators. After parties have agreed on a mediator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the mediator at least 5 court days before mediation starts.

ALL parties and attorneys must go to mediation. Mediation can be held whenever and wherever the parties and the mediator want, as long as they finish before the completion deadline date.

Most mediators begin by talking with the parties together, helping them focus on the important issues. The mediator may also meet with each party alone. Mediators often ask parties for their ideas about how to settle the case. Some mediators tell the parties how much money they think a case is worth, or tell them what they think might happen if the case went to trial. Other mediators help the parties decide these things for themselves. No matter what approach a mediator takes, decisions about settling a case can only be made when all the parties agree.

If the parties go through the court ADR program, mediators do not charge fees for the first half hour spent scheduling or preparing for mediation. They also do not charge fees for the first two hours of mediation. If parties need more time, they must pay the mediators regular fees. Some mediators ask for a deposit before mediation starts. Mediators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the mediation. A party whose court fees have been waived (cancelled) may ask if their mediation fees or deposit can be waived.

If parties agree about how they will settle their case, they can choose to keep it private, write it up as a contract, or ask the judge to make it a court order. What parties say and agree to in mediation is confidential (private) (see evidence code section 1119.)

JUDICIAL ARBITRATION (Non-Binding)

In arbitration, an independent attorney (an arbitrator) looks at the evidence, hears the arguments, listens to witnesses, and makes a decision (award) about the case under review. It is less formal than a court hearing. The arbitration award (decision) must be filed with the court within 10 days of the last arbitration hearing. It becomes a judgment unless a party disagrees with the decision and, within 30 days, asks the court to review the case. This is done by filing form ADR 102 to ask for a new court hearing (called a trial de novo.) Judicial arbitrators are allowed to charge \$150 per case or per day for their services. The arbitrator collects this fee from the parties.

PRETRIAL / MORNING OF TRIAL SETTLEMENT MENTOR CONFERENCE

In the settlement mentor conference, an independent attorney (a settlement mentor) helps parties look for ways to settle their case before it goes to trial. The conference is often scheduled for the morning of trial, but it can be scheduled anytime. These settlement mentor conferences usually last two hours. The parties do not present evidence, and witnesses are not called. Parties can ask the settlement mentor to keep some information confidential (private) from the other party, but any information may be shared with the judge. When appropriate, the settlement mentor may involve the judge in the settlement discussions. Normally, all principals or clients and all claims representatives must attend the settlement mentor conference. There is no fee for a settlement mentor conference.

NEUTRAL CASE EVALUATION

In neutral case evaluation, an independent attorney (evaluator) reviews a summary of what each party might tell the court, and offers an overall opinion about what could happen if the case went to trial. Many people use this information to reach an agreement on their own, or use another form of ADR (such as mediation or arbitration) to settle their case.

Before evaluation, each party must write a summary (no more than 5 pages) explaining the facts, legal arguments, and legal authority for their position. They must send this to the other parties and the evaluator at least 5 court days before their first evaluation conference. Normally, if the court orders evaluation, ALL parties and their attorneys must attend. Evaluation may be held whenever and wherever the parties and the evaluator want, as long as they finish before the court deadline. If the parties go through the court's ADR program, the evaluators on the panel have agreed not to charge any fees for either the first half hour spent scheduling or preparing for the evaluation, or for the first two hours of the evaluation conference. If the parties need more time, they must pay the evaluator's regular fees. Some evaluators may ask the parties to pay a deposit before evaluation starts. If this happens, the evaluator must give back whatever is left after counting all the time he or she spent preparing for or doing the evaluation. A party whose court fees have been waived (cancelled) may ask if their evaluation fees or deposit can be waived.

TEMPORARY JUDGE TRIAL

Some parties want a trial, but want to choose their own trial date. To do this, the parties can agree that the court will appoint an attorney to be a temporary judge for just their case. (See Article 6, Section 21 of the State Constitution and Rule 2.831 of the California Rules of Court.) As long as the parties meet the court deadline, they can schedule the trial at their own and the temporary judge's convenience. Each of the temporary judges on the court's panel has agreed to serve at no charge for up to 5 court days. If the parties need more time, they must pay the temporary judge's regular fees. All parties and their lawyers must attend the trial, and provide a copy of all briefs or other court documents to the temporary judge at least two weeks before the trial. The temporary judge's decision can be appealed to the superior court. These trials are similar to other civil trials, but are conducted outside the court. Currently, there is no option for a jury trial. The parties must provide their own court reporter.

ADR PANELIST APPLICATION

Unless you specify otherwise, this application will be available for viewing by the public. Information you provide will also be used to list your name on subject-specific lists and will be posted on the court's website. Please check the court's website at www.cc-court.org/adrpanel for a sample of information from this application that will be posted on the court's website.

All information included in this application may be subject to a request for verification by the Court at any time.

Name: _____
First Middle Last

Firm or Office Name: _____

Office Address: _____
Street City State Zip

Office Phone: _____ Office Fax: _____

E-Mail Address: _____ Website: _____

Assistant Name: _____ Email: _____

Hourly fees charged for service as an ADR Panel Member (required per Rules of Court 10.781) \$ _____

Languages spoken fluently other than English: _____

Willing to conduct ADR conferences during non-judicial hours? Yes No

AREAS OF EXPERTISE

(Please indicate all areas in which you have expertise)

<p>Auto Tort</p> <ul style="list-style-type: none"> <input type="checkbox"/> Auto (<i>Personal Injury</i>) <input type="checkbox"/> Uninsured motorist <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <ul style="list-style-type: none"> <input type="checkbox"/> Asbestos <input type="checkbox"/> Product liability <input type="checkbox"/> Medical malpractice <input type="checkbox"/> Other PI / PD / WD <p>Non-PI/PD/WD (Other) Tort</p> <ul style="list-style-type: none"> <input type="checkbox"/> Business tort/unfair business practice <input type="checkbox"/> Civil rights (<i>e.g., discrimination, false arrest, disability</i>) <input type="checkbox"/> Defamation (<i>e.g., slander, libel</i>) <input type="checkbox"/> Fraud <input type="checkbox"/> Intellectual property <input type="checkbox"/> Professional negligence (<i>e.g., legal malpractice</i>) <input type="checkbox"/> Other non-PI / PD / WD tort <p>Employment</p> <ul style="list-style-type: none"> <input type="checkbox"/> Wrongful termination <input type="checkbox"/> Other employment 	<p>Contract</p> <ul style="list-style-type: none"> <input type="checkbox"/> Breach of contract / warranty <input type="checkbox"/> Collections (<i>e.g., money owed, open book accounts</i>) <input type="checkbox"/> Insurance coverage <input type="checkbox"/> Other contract <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Eminent domain / inverse condemnation <input type="checkbox"/> Wrongful eviction <input type="checkbox"/> Other real property (<i>e.g., quiet title</i>) <p>Unlawful Detainer</p> <ul style="list-style-type: none"> <input type="checkbox"/> Commercial <input type="checkbox"/> Residential <input type="checkbox"/> Drugs <p>Judicial Review</p> <ul style="list-style-type: none"> <input type="checkbox"/> Asset forfeiture <input type="checkbox"/> Petition re: arbitration award <input type="checkbox"/> Writ of mandate <input type="checkbox"/> Other judicial review <p>Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Probate / Will Contest / Family <input type="checkbox"/> Conservatorship of Estate <input type="checkbox"/> Conservatorship of Person <input type="checkbox"/> Guardianship of Estate <input type="checkbox"/> Guardianship of Person <input type="checkbox"/> Property or Tax Issues <input type="checkbox"/> Trust Issues <input type="checkbox"/> Will Contest 	<p>Provisionally Complex Civil Litigation</p> <ul style="list-style-type: none"> <input type="checkbox"/> Antitrust / Trade regulation <input type="checkbox"/> Construction defect <input type="checkbox"/> Mass tort <input type="checkbox"/> Securities litigation <input type="checkbox"/> Toxic / Environmental tort <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types <p>Enforcement of Judgment</p> <ul style="list-style-type: none"> <input type="checkbox"/> Enforcement of judgment <p>Miscellaneous Civil Complaint</p> <ul style="list-style-type: none"> <input type="checkbox"/> RICO <input type="checkbox"/> Other complaint (<i>not listed above</i>) <p>Miscellaneous Civil Petition</p> <ul style="list-style-type: none"> <input type="checkbox"/> Partnership and corporate governance <input type="checkbox"/> Other petition (<i>not listed above</i>) <p>Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Elder Abuse <input type="checkbox"/> False Imprisonment <input type="checkbox"/> Family Law <input type="checkbox"/> Lemon Law <input type="checkbox"/> Mechanics Lien <input type="checkbox"/> Sexual Harassment
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DESIRED PANELS, AND MAXIMUM NUMBER OF CASES PER YEAR FOR EACH:

___ **MEDIATION**

- Unlimited Jurisdiction no more than ___ cases/year
- Limited Jurisdiction no more than ___ cases/year

___ **ARBITRATION** (Non-binding Judicial Arbitration) no more than ___ cases/year

___ **NEUTRAL CASE EVALUATION** no more than ___ cases/year

___ **PRETRIAL / MORNING OF TRIAL SETTLEMENT MENTOR** no more than ___ cases/year

- I am willing to be on the "short notice" list. Cell Phone: _____

ALL ATTORNEY APPLICANTS

I am a retired judge a member of the California State Bar

Calif. State Bar No.: _____ Year Admitted to Practice: _____

Please estimate the number of limited jurisdiction (less than \$25,000) civil cases for which you have had principal responsibility or served as the trial attorney:

<u>Primary responsibility:</u>	Personal Injury: _____	Business: _____	Other: _____
<u>Trial attorney:</u>	Personal Injury: _____	Business: _____	Other: _____

Please estimate the number of unlimited jurisdiction (more than \$25,000) civil cases for which you have had principal responsibility or served as the trial attorney:

<u>Primary responsibility:</u>	Personal Injury: _____	Business: _____	Other: _____
<u>Trial attorney:</u>	Personal Injury: _____	Business: _____	Other: _____

Number of trials as lead counsel: _____

Currently active in civil litigation practice? Yes No (Date Ceased _____)

% Cases of current practice representing parties: plaintiff: ____% defendant ____%

% Cases of practice representing parties at other times in your career: plaintiff ____% defendant ____%

Brief Professional Summary (or attach resume or CV):

ALL NON-ATTORNEY APPLICANTS

Please list all professional licenses, state and year awarded:

Provide a Brief Professional Summary (or attach resume or CV):

FOR MEDIATION PANEL MEMBERS

MEDIATION TRAINING (Choose one)

____ I have completed a 40-hour comprehensive mediation training program from a single provider within the past three years that encompasses commonly recognized mediation principles and practices including: confidentiality, voluntary participation, communicating clearly, listening effectively, facilitating communication among all participants, promoting exploration of mutually acceptable settlement options, and conducting oneself in a neutral manner. [Do not complete the Supplement to ADR Panelist Application.] OR

____ I have completed a 40-hour comprehensive mediation training program from a single provider that encompassed the information described above more than three years ago and within the past three years I have completed at least four hours of continuing education or training related to the practice of mediation. At least 2 hours of that education or training addressed ethics, fairness, and bias issues in the mediation context. At least 1 hour of that education or training addressed practice and ethical issues that arise when parties are not represented by an attorney. [Do not complete the Supplement to ADR Panelist Application.] OR

____ I am seeking admission to the panel pursuant to Local Rule 3.201 based on alternative qualifications or experience. All applicants seeking admission pursuant to Local Rule 3.201(C)(2) are required to submit a completed Supplement to ADR Panelist Application (available online) along with this application.

Please list all mediation training that you have attended in the past 6 years. You may attach documentation or certificates of completion, if you so choose.

<u>Trainer</u>	<u>Course Title</u>	<u>Hours</u>	<u>Date</u>

MEDIATION EXPERIENCE

____ I have mediated 5 cases or co-mediated at least 10 cases as described in the Local Rules of the Court of the Superior Court of Contra Costa County **(required.) For each of these cases state:**

<u>Subject Matter</u>	<u>Date(s)</u>	<u>Sole or Co-Mediator</u>

List current affiliations with all dispute resolution providers, including the Superior Court of California, County of Contra Costa, other courts, governmental entities and indicate if you are in private mediation practice (add additional pages, if necessary.)

<u>Mediate for: Court/Entity/Private</u>	<u>Number of Cases</u>	<u>Year</u>

AGREEMENT TO ABIDE BY ETHICAL REQUIREMENTS AND FEE SCHEDULES AS ESTABLISHED BY THE CONTRA COSTA COUNTY SUPERIOR COURT

Local Rules of Court Rule 3.206

ETHICAL AND PRACTICE STANDARDS FOR ADR PANEL MEMBERS

(a) General Responsibilities. People serving on the Court's ADR Panel must be familiar with and follow all state or federal laws, California Rules of Court, Local Court Rules, and relevant professional or ADR-specific standards of practice. Further, panel members have a duty to the parties, the Court and themselves to be honest and diligent, to act in good faith, and to not advance their own interests at the parties' expense. ADR panel members must be reasonably available to schedule ADR conferences, and must make an effort to expedite the ADR process.

(b) Neutrality. ADR panel members must be neutral and act fairly in dealing with the parties. In these rules, neutrality is defined as "freedom from favoritism or bias by appearance, word, or action, and a commitment to serve all parties as opposed to a single party." Further, the mediator may not have a personal interest in the case, and cannot show bias toward individuals and institutions involved in the dispute.

(d) Conflict of Interest – duty to disclose. Per California Rules of Court, Rule 3.855, panel members have an ongoing duty to disclose actual or potential conflicts of interest. Panel members must disclose personal or professional relationships with a party including (but not limited to): legal representation by the panel member or his or her law firm; representation in business, real property, tax preparation, or other transactions; and, service as a consultant, advisor, therapist, or other expert. If there is an actual or perceived conflict of interest, the parties may jointly decide to keep working with that panel member, or contact the ADR Programs office to choose another panel member.

(e) Solicitation by Panel Members. Panel members must accurately state their qualifications, and must not make misleading claims about any ADR process, its costs and benefits, or its outcome. Panel members must not ask for or accept business from an ADR participant (either as a neutral, consultant, or representative in any other professional capacity) while that ADR proceeding is pending.

(f) Confidentiality. Except as otherwise provided, panel members must treat all written and oral communications made in or during an ADR process as confidential to the extent provided by the California Evidence Code and relevant case law.

(g) Role of the Panel Member in Settlement. Panel members should help the parties to discuss the issues in dispute, and to carefully consider any proposed settlement options. Further, the panel member must try to identify and limit inappropriate pressures to settle the case. In order to protect the neutrality of his or her role, the panel member may find it advisable, for example, to encourage parties to seek independent advice from legal or other professionals.

(h) Unrepresented Interests. Panel members must consider the possibility that people not attending an ADR conference may be affected by the results. The panel member has a duty to encourage the parties to fully consider such interests, when, in his or her judgment, it is appropriate to do so.

(i) Informed Consent. Panel members have an ongoing duty to ensure that all parties understand the process and procedures associated with their ADR case. Further, the panel member must make every effort to ensure that the parties understand the panel member's role, and the limits to that role, in managing the ADR process, getting expert advice, and making decisions. Panel members should always have written agreements with the parties in a particular case regarding hourly fees and the management of the ADR case.

(j) Knowledge of Process. A panel member must only accept responsibility for delivering ADR services when reasonably certain that he or she has sufficient knowledge, training, or other expertise to administer that process appropriately, and in a way that helps the parties to participate effectively.

(k) Pro Bono Contributions and Fees for Service. Panel members must follow the Court's policies regarding ADR services that will be provided at no cost to the parties, and ADR services that may be compensated at the panel member's normal rate. Panel members must prepare billing or invoice statements to the parties that clearly state the purpose for all fees, and reflect the required pro bono service contribution. Specifically:

- (1) Panel members will provide their services at no cost to the parties or the Court when serving as a settlement mentor or as a temporary judge.
- (2) Panel members will limit their fees for judicial arbitration to \$150 per day or per case, and will look to the parties for payment of these fees.
- (3) Panel members will provide the first thirty minutes of case preparation and scheduling, and the first two hours of mediation and neutral case evaluation conference time at no charge. If the parties request additional time, or additional time is required to provide the requested mediation or evaluation services, the panel member may, with the parties' agreement, charge their normal rates for actual time spent.

FOR ALL PANEL MEMBERS

_____ **(Required for all panel members)** I will comply with all ethical requirements for neutrals set forth in Contra Costa Superior Court Local Rules of Court, Rule 3.206, and abide by the ethical standards as adopted by state and national professional organizations, and with the Uniform Mediation Act.

FOR MEDIATION PANEL MEMBERS

_____ **(Required for this panel)** I certify that I will meet the continuing education requirements of the Local Rules of Court of the Superior Court of Contra Costa County following my appointment as a mediator to the court ADR panel.

_____ **(Required for this panel)** I agree to abide by the ethical principles established by California Rules of Court, Rule 3.850 through 3.860.

_____ **(Required for this panel)** I hereby certify that there are no matters about which I am required to inform the Court pursuant to California Rule of Court 3.856(c) **OR** _____ I have attached hereto a detailed description of all such matters.

_____ **Required for this panel)** I agree to give 30 minutes of scheduling and preparation *and* 2 hours of mediation conference time pro bono on every mediation case accepted; and to complete, serve (as appropriate), and return all required case information forms.

_____ I agree to take on one mediation case (up to 8 hours) per year wholly pro bono, or on a reduced fee basis (\$150). (Determination of a litigant's entitlement to pro bono mediation services will be based on the same criteria as those for a fee waiver.)

FOR ARBITRATION PANEL MEMBERS

Under California Code of Civil Procedure, Section 1141.18, arbitrators are paid at the rate of \$150 per day or per case. It is a long-standing policy of this Court to require our Arbitration panelists to serve without compensation, and this court expects that you will either waive the Arbitrator's fee, or look exclusively to the parties for payment.

_____ **(Required for this panel)** I agree to either waive the Arbitrator's fee, or look exclusively to the parties for payment that is consistent with California Code of Civil Procedure, Section 1141.18 (limited to \$150 per day or per case); and to complete, serve (as appropriate), and return all required case information forms.

FOR NEUTRAL CASE EVALUATION PANEL MEMBERS

_____ **(Required for this panel)** I agree to give 30 minutes of scheduling and preparation and 2 hours of conference time pro bono on each Neutral Case Evaluation accepted; and to complete, serve (as appropriate), and return all required case information forms.

FOR PRETRIAL / MORNING OF TRIAL SETTLEMENT MENTORS

_____ **(Required for this panel)** I agree to serve entirely pro bono for every pretrial or morning of trial settlement mentor case accepted.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA**

OATH

FOR THE OFFICE OF ARBITRATOR, SECTION 1141.10 C.C.P.

I, _____, do solemnly swear (or affirm) that I will well and faithfully discharge the duties of an arbitrator and justly try all matters submitted to me.

Signature

Bar Number

Address: _____

Dated: _____

Please send the original of this form to the ADR Programs Office, P.O. Box 911, Martinez, CA 94553

Provide three references, preferably from persons with whom you have worked as a neutral. Please be mindful of the confidentiality requirements and seek prior permission to use the names of persons who worked with you as a neutral.

Name: _____

Position: _____

Organization: _____

Address: _____

Telephone Number: _____

E-mail: _____

If reference knows you as a neutral, state whether the reference was: Attorney or Client and type of proceeding: mediation arbitration neutral evaluation Other (specify): _____

Provide three references, preferably from persons with whom you have worked as a neutral. Please be mindful of the confidentiality requirements and seek prior permission to use the names of persons who worked with you as a neutral.

Name: _____

Position: _____

Organization: _____

Address: _____

Telephone Number: _____

E-mail: _____

If reference knows you as a neutral, state whether the reference was: Attorney or Client and type of proceeding: mediation arbitration neutral evaluation Other (specify): _____
